

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AMERICAN STEAMSHIP OWNERS MUTUAL PRO-
TECTION AND INDEMNITY ASSOCIATION, INC.,

Plaintiff,

-against-

04 Civ. 4309 (LAK)

ALCOA STEAMSHIP CO., INC., et al.,

Defendants.
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ORDER

LEWIS A. KAPLAN, *District Judge*.

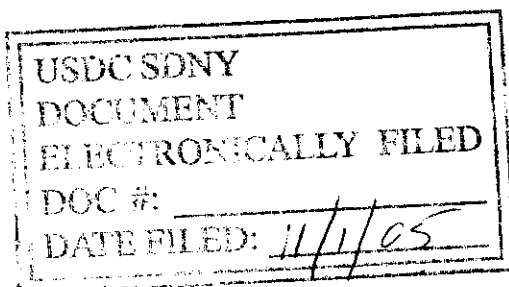
Plaintiff objects to orders dated September 13, and 15, 2005, of Magistrate Judge James C. Francis IV, which, respectively, (1) granted in part and denied in part plaintiff's motion for a protective order and denied its motion to compel, and (2) granted in part and denied in part its motion for reconsideration and, on reconsideration, adhered to the original decision. In particular, it contends that so much of the orders as held that its disclosure of earlier legal opinions rendered by its counsel to its board waived the attorney-client privilege with respect to the May 18, 2004 opinion letter.

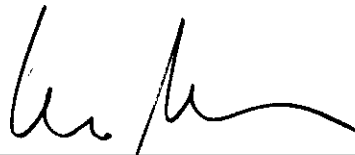
The crux of plaintiff's position is that "a distinction must be drawn between opinions tendered to the former Board members when they were members, and opinions tendered to the present Board members at a time when the relationship between the Club and at least one former member Defendant had already become adversarial, and the relationship with the other defendants was in the process of becoming so." Pl. Obj. 11. With respect, the Court disagrees. The fact of the matter is that the client in the attorney-client relationship in question was the plaintiff, not the individual directors. Thus, when the plaintiff elected to disclose and use in the litigation what Magistrate Judge Francis described as "sixteen different opinions of counsel, dated from 1955 to 2003, regarding the closing of insurance years and the Club's ability to assess members after a year ha[d] been closed," Order, Sept. 13, 2005, at 20, it made a fateful decision. The Court finds no error or abuse of discretion in Judge Francis' carefully reasoned decision that its consequences included waiver of the privilege as to the May 18, 2004 opinion letter.

Plaintiff's objections are overruled and the orders appealed from affirmed.

SO ORDERED.

Dated: November 1, 2005





Lewis A. Kaplan
United States District Judge